

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE**

NIKKI BOLLINGER GRAE, Individually and) on Behalf of All Others Similarly Situated,) Plaintiff,) vs.) CORRECTIONS CORPORATION OF) AMERICA, et al.,) Defendants.)	Civil Action No. 3:16-cv-02267 Honorable Aleta A. Trauger
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REPLY IN FURTHER SUPPORT OF MOTION FOR LEAVE TO FILE SUR-REPLY

Defendants seek a Sur-Reply to address new arguments and new expert opinions submitted by Plaintiff on Reply. (Dkt. No. 124.) Plaintiff objected. (Dkt. No. 125.)

Defendants respectfully submit that it would be manifestly unfair to prevent them from responding to the numerous factual inaccuracies and analytical errors contained in Plaintiff's Reply and Dr. Feinstein's new 66-page "Rebuttal Report" -- particularly where Defendants, not Plaintiff, bears the burden of rebutting the presumption of reliance. Indeed, the legal analysis in the Sur-Reply and the evidence in Lucy Allen's response to Dr. Feinstein's "Rebuttal Report" is precisely the type of data that the Court must consider when conducting its "rigorous analysis" that the parties agree is necessary to determine class certification. *See* Response, at 2.

Defendants believe that will complete the record and assist the Court in conducting its analysis.

In the spirit of compromise, Defendants (i) agree to forgo another deposition of Dr. Feinstein and (ii) propose that they submit both the Sur-Reply (not to exceed 15 pages) and a short report from Lucy Allen, Defendants' expert (also not to exceed 15 pages), on or before November 21, 2018. Defendants do not believe this proposal will result in undue delay in determining whether the class should be certified, particularly where Plaintiff had approximately three months to prepare and file its Reply and Dr. Feinstein's "Rebuttal Report." Defendants and

Ms. Allen should be afforded sufficient time prepare the Sur-Reply and response to Dr. Feinstein's new opinions, and Defendants believe the proposal outlined above fairly balances the parties' respective concerns.

DATED: November 5, 2018

Respectfully submitted:

/s/ Steven A. Riley
Steven A. Riley (TN #6258)
Milton S. McGee, III (TN #024150)
RILEY WARNOCK & JACOBSON, PLC
1906 West End Avenue
Nashville, TN 37203
T: (615) 320-3700
F: (615) 320-3737
sriley@rwjplc.com
tmcgee@rwjplc.com

David J. Schindler (admitted *pro hac vice*)
Brian T. Glennon (admitted *pro hac vice*)
Faraz Mohammadi (admitted *pro hac vice*)
LATHAM & WATKINS LLP
355 South Grand Ave.
Los Angeles, CA 90071
T: (213) 485-1234
F: (213) 891-8763
david.schindler@lw.com
brian.glennon@lw.com
faraz.mohammadi@lw.com

Morgan E. Whitworth (admitted *pro hac vice*)
LATHAM & WATKINS LLP
505 Montgomery Street, Suite 2000
San Francisco, CA 94111
T: (415) 391-0600
F: (415) 395-8095
morgan.whitworth@lw.com

*Attorneys for Defendants Corrections Corporation
of America, Damon T. Hininger, David M.
Garfinkle, Todd J. Mullenger, and Harley G.
Lappin*

CERTIFICATE OF SERVICE

I hereby certify that service of the foregoing document was made upon the following Filing Users through the Electronic Filing System:

Paul Kent Bramlett
Robert Preston Bramlett
BRAMLETT LAW OFFICES
40 Burton Hills Blvd., Suite 200
P.O. Box 150734
Nashville, TN 37215
pknashlaw@aol.com
robert@bramlettlawoffices.com

Jeremy A. Lieberman
J. Alexander Hood II
Marc C. Gorrie
POMERANTZ LLP
600 Third Ave., 20th Floor
New York, NY 10016
jalieberman@pomlaw.com
ahood@pomlaw.com
mgorrie@pomlaw.com

Jerry E. Martin
BARRETT JOHNSTON MARTIN &
GARRISON, LLC
Bank of America Plaza
414 Union Street
Suite 900
Nashville, TN 37219
jmartin@barrettjohnston.com

Christopher Hamp Lyons
Christopher M. Wood
ROBBINS GELLER RUDMAN
& DOWD LLP
414 Union Street
Suite 900
Nashville, TN 37219
clyons@rgrdlaw.com
cwood@rgrdlaw.com

Patrick V. Dahlstrom
POMERANTZ LLP
10 South La Salle St., Suite 3505
Chicago, IL 60603
pdahlstrom@pomlaw.com

Michael Goldberg
Brian Schall
GOLDBERG LAW PC
1999 Avenue of the Stars
Suite 100
Los Angeles, CA 90067
michael@goldberglawpc.com
brian@goldberglawpc.com

Christopher T. Cain
SCOTT & CAIN
550 W Main Avenue
Suite 601
Knoxville, TN 37902
cain@scottandcain.com

James A. Holifield, Jr.
HOLIFIELD JANICH RACHAL &
ASSOCIATES, PLLC
11907 Kingston Pike
Suite 201
Knoxville, TN 37934
aholifield@holifieldlaw.com

Dennis J. Herman
Willow E. Radcliffe
Kenneth J. Black
ROBBINS GELLER RUDMAN
& DOWD LLP
Post Montgomery Center
One Montgomery Street, Suite 1800
San Francisco, CA 94104
dennish@rgrdlaw.com
willowr@rgrdlaw.com
kennyb@rgrdlaw.com

this 5th day of November, 2018.

/s/ Steven A. Riley
Steven A. Riley